

Marco Costa, Bar No. 031915  
**GILLESPIE, SHIELDS,  
GOLDFARB & TAYLOR**  
7319 North 16th Street  
Phoenix, Arizona 85020  
Telephone: (602) 870-9700  
Fax: (602) 870-9783  
Email: [mcosta@gillaw.com](mailto:mcosta@gillaw.com)  
*Attorneys for Plaintiff*

Send all Court Documents to: [mailroom@gillaw.com](mailto:mailroom@gillaw.com)

**IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF ARIZONA**

**Arthur Miller, an individual,**

**Plaintiff,**

**vs.**

**United Parcel Service, Inc. an Ohio  
Corporation; ABC CORPORATIONS 1-  
10; XYZ partnerships 1-10; OTHER  
BUSINESSES 1-10,**

**Defendants.**

Case No.

**COMPLAINT  
(Jury trial requested)**

Plaintiff, Arthur Miller, Defendant, by and through undersigned counsel, hereby  
alleges as follows:

**PARTIES**

1. Plaintiff, Arthur Miller, is a resident of Maricopa County, Arizona.

**GILLESPIE, SHIELDS, GOLDFARB & TAYLOR**  
7319 North 16th Street, Phoenix, Arizona 85020  
1630 S. Stapley Drive, Suite 212, Mesa, Arizona 85204  
Telephone: (602) 870-9700 ♦ Fax: (602) 870-9783  
Telephone (Mesa): (480)-985-4000 ♦ Fax (Mesa): (480) 985-7552

2. Defendant United Parcel Service, Inc. (“UPS”), is an Ohio corporation registered as a foreign corporation with the Arizona Corporation Commission, with principal office at 8825 N. 23rd Avenue, Suite 100, Phoenix, AZ 85021.

3. Defendants ABC Corporations 1-10; XYZ Partnerships 1-10; Other Businesses 1-10 are fictitiously named herein as Defendants and agents/employees of Defendant, which Defendants may later be joined as such time their true and correct identities are discovered.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1367(a).

5. Venue is proper in the District of Arizona under 28 U.S.C. § 1391.

### **FACTUAL ALLEGATIONS**

6. On or about September 8, 2015, Plaintiff was employed with UPS as a Preloader.

7. In June 2016, Plaintiff was promoted to a Part-Time Preload Supervisor.

8. Plaintiff voluntarily resigned from such position on or about July 7, 2017.

9. On or about October 13, 2020, Plaintiff was re-hired as seasonal (temporary) Casual Package Car Driver during UPS’s peak season until on or about January 3, 2021.

10. During the course of these employments with UPS, Plaintiff was subject to criminal background checks and found eligible for hiring despite his previous felony conviction(s).

1           11. Shortly after the end of his temporary position, Plaintiff learned there was  
2 an open position at the Phoenix Air Gateway Center, and he was eligible for re-hiring  
3 notwithstanding his previous criminal history.  
4

5           12. As a requirement to work at the airport facility, Plaintiff underwent a  
6 background check with the FBI and TSA, which he passed.  
7

8           13. On or about February 25, 2021, Plaintiff received his badge and began to  
9 work as part-time Air Ramp person on or about March 1, 2021, from 04:00 am until  
10 approximately 09:00 am.

11           14. Only after one day work, on or about March 1, 2021, around 2.30 pm,  
12 Plaintiff received a phone call from an unidentified HR person at UPS communicating he  
13 was immediately terminated for failing to pass the background check submitted with UPS.  
14

15           15. Plaintiff requested explanations regarding this unexpected decision, but  
16 UPS refused to provide any.  
17

18           16. Based upon information and beliefs, UPS has a history of hiring individuals  
19 with previous criminal background.  
20

21           17. Plaintiff did not receive the background check report up until March 11,  
22 2022.

23           18. On May 17, 2021, Plaintiff filed a Charge of Discrimination (the “Charge”)  
24 with the Office of the Arizona Attorney General – Division of Civil Rights Section (the  
25 “Division”).  
26

27           19. Plaintiff believed the reason for his termination was because he is a Hispanic  
28 person with previous criminal records.

20. At the end of the investigation, the Division issued Plaintiff the Notice of Right to Sue on March 10, 2022.

**COUNT I**

**Violation of the Fair Credit Reporting Act  
(Title IV of The Consumer Credit Protection Act - 15 U.S.C. §§ 1681-1681x)**

21. UPS claims Plaintiff was terminated in response of Plaintiff's failure to pass the criminal background check.

22. Plaintiff was terminated over the phone on March 1, 2021.

23. UPS did not provide Plaintiff a pre-adversion action letter detailing the potential adverse action and what information lead to such decision.

24. Plaintiff was not allowed reasonable time to dispute the finding of the background check.

25. Plaintiff received an adverse action letter only on or about March 11, 2021.

26. UPS violated terms contained in the Fair Credit Reporting Act.

27. Plaintiff is entitled to damages as a result of Defendant's violation(s).

**COUNT II**

**Violation of Title VII of the Civil Rights Act of 1964  
(National origin/race discrimination)**

28. UPS already employed Plaintiff in the past despite Defendant was aware of his previous criminal conviction(s).

29. Plaintiff successfully passed the background checks for his previous employments with UPS.

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1           30. Upon information and believes, UPS has a history of hiring workers with  
2 previous criminal records for the same location Plaintiff was terminated.

3  
4           31. Plaintiff believes UPS treated him differently from other employees with  
5 criminal records because of his national origin/race (Hispanic).

6           32. Plaintiff believes UPS's criminal record exclusion policy operates to  
7 disproportionately exclude people of a particular race or national origin.

8  
9           33. UPS did not give Plaintiff the opportunity to show why he should have not  
10 been terminated.

11           34. Plaintiff is entitled to damages as a result of Defendant's violation(s).

12  
13                   **COUNT III**  
14                   **Wrongful termination**  
15                   **(A.R.S. 23-1501)**

16           35. UPS already employed Plaintiff in the past despite Defendant was aware of  
17 his previous criminal conviction(s).

18           36. Plaintiff successfully passed the background checks for his previous  
19 employments with UPS.

20  
21           37. Upon information and believes, UPS has a history of hiring workers with  
22 previous criminal records for the same location Plaintiff was terminated.

23           38. Plaintiff believes UPS treated him differently from other employees with  
24 criminal records because of his national origin/race (Hispanic).

25  
26           39. Plaintiff believes he was wrongfully terminated because of his national  
27 origin/race (Hispanic).

28  
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40. Plaintiff is entitled to damages as a result of Defendant's wrongful termination.

**WHEREFORE**, Plaintiff prays that this Court for the following:

A. Declaring the acts and practices complained of herein are in violation of the Fair Credit Reporting Act and/or Title VII of the Civil Rights Act of 1964;

B. General damages and compensatory damages to be proven at trial, including, but not limited to:

i. Back pay in an amount to be proven a trial,

ii. Front pay in an amount to be proven a trial,

iii. The value of lost benefits;

C. Damages pursuant to the Fair Credit Reporting Act;

D. Punitive damages pursuant to Title VII of the Civil Rights Act of 1964;

E. Pre-judgment and post-judgment interest;

F. Attorney's fees and costs of suit;

H. For such other relief to which Plaintiff may be entitled and this Court deems just and proper.

**RESPECTFULLY SUBMITTED** this 16th day of May 2022

**GILLESPIE, SHIELDS,  
GOLDFARB & TAYLOR**

By: /s/ Marco Costa  
Marco Costa  
*Attorney for Plaintiff*

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